

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
 ) CC Docket No. 95-155  
Toll Free Service Access Codes )

**REPLY COMMENTS OF**  
**QWEST COMMUNICATIONS CORPORATION**

Pursuant to the Commission's Notice of Proposed Rulemaking ("NPRM") released October 5, 1995 in the above-captioned proceeding, Qwest Communications Corporation ("Qwest"), by its attorneys, hereby submits these reply comments.

**INTRODUCTION**

Many of the parties submitting comments in this proceeding presented some insightful suggestions regarding ways in which the Commission could encourage the fair and equitable use of toll-free numbers, introduce new toll-free numbers, and prevent the warehousing of such numbers. The comments of some of the parties, however, lost sight of one of the Commission's primary goals in this proceeding — the prevention of the exhaustion of future toll-free codes. In reaching final decisions in this proceeding, the Commission should maintain its focus on this goal, along with the goal of allowing small, competitive toll-free service providers to provide alternative services and thus increased choice within the market.

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## ARGUMENT

### I. THE COMMISSION SHOULD REQUIRE CARRIERS TO HAVE AN AFFIRMATIVE CUSTOMER REQUEST BEFORE EVEN RESERVING NUMBERS FROM THE DATABASE

Many of the comments filed indicated some uncertainty as to whether the Commission was proposing that carriers have an affirmative customer request before *assigning* a number to a customer, or before *reserving* a number from the database. Specifically, while the Commission proposes that an affirmative customer request be required before a number can be assigned,<sup>1</sup> later in the NPRM the Commission proposes to require all RESPORGs to certify that they have an identified subscriber for each number requested from the database.<sup>2</sup> Because these proposals are discussed in different portions of the NPRM, not all parties linked them in their comments.

Qwest wishes to highlight the importance of this issue as an anti-warehousing measure and strongly urges the Commission to require carriers to have a specific customer request before the carrier can obtain a number from the database. Any other system will permit the warehousing of numbers to continue. While many carriers might prefer for marketing purposes to obtain numbers in advance of specific customer requests, it is very difficult to determine what is or is not a legitimate pool of numbers for marketing purposes. Requiring a specific customer request certified by the RESPORG prior to reservation, however, is simpler, clearly prevents warehousing, and treats all carriers

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<sup>1</sup> NPRM at ¶13.

<sup>2</sup> *Id.* at ¶34.

equally for marketing purposes — *i.e.*, no carrier will be able to “turn up” a customer number instantaneously as a result of warehousing.

## **II. ANY ESCROW ACCOUNT MUST BE STRUCTURED TO PREVENT A DISPROPORTIONATE IMPACT ON SMALLER RESPORGS**

As indicated in its initial comments, Qwest supports the establishment of an escrow requirement for each toll-free number reserved by the large, established toll-free service providers in order to limit the warehousing of numbers.<sup>3</sup> If the Commission declines to set a sufficiently high threshold for imposing this requirement, however, there are other alternatives that could also prevent the strong negative impact that a flat escrow requirement would have on smaller RESPORGs and thus the competitiveness of the market. One suggestion that might acceptably accomplish this goal, made by MFS Communications Company, Inc. in its comments, would be to impose a graduated escrow payment requirement based upon a RESPORG’s market share.<sup>4</sup> If the Commission does not choose one of these alternatives, however, it should not impose an escrow requirement at all due to the potentially debilitating impact any effective payment would have on small, competitive providers.

## **III. ANY RIGHT OF FIRST REFUSAL SHOULD EXTEND ONLY TO 888 TOLL-FREE CODES, NOT ANY SUBSEQUENT CODES**

In the NPRM, the Commission requested comment on whether current 800 numbers should be granted some right of first refusal for the corresponding 888 number

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<sup>3</sup> Qwest Comments at 3-4.

<sup>4</sup> MFS Comments at 4.

and subsequent toll-free numbers.<sup>5</sup> In discussing this issue, several commenters urged the Commission to extend any right of first refusal that might be adopted *only* to the imminent 888 toll-free codes, but not to subsequent toll-free codes.<sup>6</sup> Qwest strongly supports this proposal in the event that the Commission adopts a right of first refusal approach. As several parties pointed out, by the time a third or fourth toll-free code is “rolled out,” customers will be aware that more than one code is in use and will, presumably, be careful to dial their intended number. Arguments based upon customer confusion are therefore largely minimized for later toll-free codes. Most importantly, limiting this right to only the 888 code will limit the number of times that the industry might experience “automatic” exhaust of a substantial amount of new toll-free numbers immediately upon availability.<sup>7</sup>

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<sup>5</sup> NPRM at ¶41.

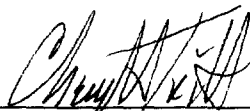
<sup>6</sup> See, e.g., WorldCom Comments at 15; LCI Comments at 9; and Bell Atlantic Comments at 8.

<sup>7</sup> Parties asserting that only a small percentage of customers will choose to exercise a right of first refusal — even if it is available without any fee — are ignoring the potential for quick and substantial exhaustion.

## CONCLUSION

In conclusion, the Commission should continue to focus on its goals of establishing an efficient and fair mechanism for the distribution of toll-free numbers that increases competition in the toll-free service market.

Respectfully submitted,



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